

**Before the
Federal Communications Commission
Washington, DC 20554**

FCC 16M-37

In the Matter of)	EB Docket No. 14-82
)	
PATRICK SULLIVAN)	FRN: 0003749041, 0006119796,
(Assignor))	0006149843, 0017196064
)	
and)	Facility ID No. 146162
)	
LAKE BROADCASTING, INC.)	File No. BALFT-20120523ABY
(Assignee))	
)	
For Commission Consent to the Assignment of)	
License of FM Translator Station W238CE,)	
Montgomery, Alabama)	

ORDER

Issued: December 22, 2016

Released: December 22, 2016

At the Status Conference held on November 17, 2016, the Presiding Judge directed the Enforcement Bureau (Bureau) to produce documents requested by Lake Broadcasting, Inc. (Lake) regarding the qualifications of the Bureau's proposed expert witness, Tammy Gremminger. The agreed production date was November 30, 2016. *See* Tr. at 108:12-113:12. On November 30, 2016, the Bureau filed a motion requesting an extension to December 15, 2016, reporting that they had not yet heard from Ms. Gremminger. The Presiding Judge granted the extension. *See Order*, FCC 16M-34 (rel. Dec. 2, 2016).

On December 12, 2016, the Bureau filed a second motion concerning the qualification documents (Second Motion). According to the Bureau, after failed attempts to reach Ms. Gremminger, Bureau counsel contacted one of her colleagues. Second Motion at 2. The colleague informed the Bureau that apparently someone claiming to represent Mr. Rice had threatened to pursue legal action against Ms. Gremminger if she continued to participate in the hearing. As a result of the threat, Ms. Gremminger sought legal counsel at the Missouri Department of Corrections. She was instructed to have no further contact with the Bureau until their investigation of the matter was resolved. *Id.*

The Bureau has also requested: (1) a stay of the Presiding Judge's order to produce Ms. Gremminger's qualification documents, and (2) a stay of the deadlines set in *Prehearing Order*, FCC 16M-32 (rel. Nov. 21, 2016). The Bureau further represents that "[o]nce the Bureau has

been able to determine whether – and when – Ms. Gremminger will be able to continue working with the Bureau concerning the instant case, the Bureau will immediately file a status report . . .” Second Motion at 3.

The next day, December 13, 2016, Lake filed a motion to strike the Bureau’s Second Motion (Lake’s Motion to Strike). The Bureau filed its Opposition to Lake’s Motion to Strike on December 19, 2016 (Bureau Opposition).

The Presiding Judge finds Lake’s Motion to Strike to be without merit. Lake argues that the Bureau should be ordered to refile its motion in “legally acceptable form.” Lake’s Motion to Strike at 2. Lake claims that the Bureau’s Second Motion is legally unacceptable because it “lacks all of the specifics necessary to give the tale any credence.” *Id.* The objection goes to substance and not any procedural filing rule. There is no reason to believe that the Bureau provided anything less than the information it possessed at the time of filing its Second Motion. Lake has not provided any evidence to the contrary. Nor has Lake cited any legal authority that such specificity is legally required.

Lake further argues that there is “no explanation” of why Ms. Gremminger’s lack of communication was not communicated to the Bureau until now. The Bureau is not required to answer for the workings of the Missouri Department of Corrections. Moreover, the Bureau had no reason to suspect that Ms. Gremminger’s lack of communication was due to any outside influence such as the alleged threat.

The Presiding Judge finds merit in the Bureau’s suggestion that the Presiding Judge “require Lake to provide an affidavit from Mr. Rice that neither he nor anyone else at his direction, on his behalf, or to his knowledge contacted Ms. Gremminger or the Missouri Department of Corrections in an effort to threaten her continued involvement in this case.” Bureau Opposition at 4. Lake shall file a declaration under oath to this effect. Alternatively, if Mr. Rice is unable to so attest, Lake is to file a declaration under oath describing Mr. Rice’s knowledge and involvement. Either pleading must be filed by **Thursday, January 12, 2017 at 4 PM.**

The Presiding Judge directs the Bureau to file a precise list of the documents that it is seeking to obtain from Ms. Gremminger by **Tuesday, January 3, 2017 at 4 PM.**

Finally, the Bureau must file Status Report(s) within five (5) business days from the date that the Bureau learns of any significant development regarding Ms. Gremminger and her documents, or by the last business day of each month, starting in January 2017. Such status reports shall also include the Bureau’s proposed course of action based on its current knowledge at the time of filing each Status Report.

Because of these developments outside the control of either party, the hearing date will be postponed *sine die*. The Presiding Judge believes that a status conference would be premature at this time.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION¹

A handwritten signature in black ink, reading "Richard L. Sippel". The signature is written in a cursive, flowing style.

Richard L. Sippel
Chief Administrative Law Judge

¹ Courtesy copies of this Order will be sent via email to all counsel of record on the date of issuance.